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**JUL 21 2017**

July 17, 2017

Mr. Scott Pruitt  
Administrator  
United States Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Mr. Michael A.M. Lauffer  
Acting Executive Director – Chief Counsel  
California Water Quality Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Gentlemen:

Pursuant to the Clean Water Act, 33 U.S.C. §§ 1251-1387, including specifically § 1365, Calliopsis, LLC ("Calliopsis") and the California Olive Ranch, Inc ("COR") hereby provide notice to the Environmental Protection Agency, the California Water Resources Board, the Lucas D. Alexander and Nicole A. Alexander Revocable Trust ("ART"), and 4M2G, Inc. of Calliopsis's and COR's intent to commence a legal action against ART and 4M2G for violations of the Clean Water Act.

As alleged in the attached Cross-Complaint, filed in the Superior Court for the County of Tehama on July 7, 2017, ART and 4M2G own three non-contiguous parcels of real property (collectively the "ART Property") situated in the County of Tehama, State of California, specifically and legally described as the fractional Southwest quarter of Section 31, Township 24 North, Range 2 West, Mount Diablo Meridian, Tehama County APN 091-050-010-000 (the "ART Eastern Parcel"), the South half of the Northeast quarter and the North half of the Southeast quarter of Section 6, Township 23 North, Range 2 West, Mount Diablo Meridian, Tehama County (the "ART Southeastern Parcel"), and Lots 1, 2, and 3, and the Northeast quarter of the Northwest quarter of Section 7, Township 23 North, Range 2 West, Mount Diablo Meridian, Tehama County (the "ART Southern Parcel"). Calliopsis and COR understand and believe that each of these parcels of land contain protected wetlands subject to the Clean Water Act.

Beginning in the Spring of 2017, ART and 4M2G began to engage in various earth works, apparently to prepare the ART Property for agricultural planting. Since approximately May 2017, ART and 4M2G have used heavy machinery or equipment to chisel, disk, and/or grade the ground on the Eastern, Southeastern and Southern Parcels (collectively, hereinafter the "Earth Works"). Calliopsis and COR understand it is ART's intention to plant almond trees on these properties.

Calliopsis and COR are informed and believe that ART's and 4M2G's Earth Works have disturbed protected wetlands in violation of the United States Clean Water Act. Specifically, Calliopsis and COR believe ART's and 4M2G's Earth Works discharges pollutants, including fill

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materials and soil into "waters of the United States" without a permit or statutory exemption. Calliopsis and COR believe that the wetlands on ART's property have a significant nexus with the Sacramento River, a nearby traditionally navigable waterway.

Following the statutory 60-day notice period provided in 33 U.S.C. § 1365(b)(1), Calliopsis and COR intend to pursue a citizen suit against ART and 4M2G for violations of the Clean Water Act.

Very truly yours,



David C. Beach  
Enclosure

cc with enclosure:

Alexis Strauss, Acting Regional Administrator  
U.S. Environmental Protection Agency  
Pacific Southwest (Region 9)  
75 Hawthorne Street, Mail Code: ORA-1, San Francisco, CA 94105

Pamela Creedon, Executive Officer  
Central Valley Water Quality Control Board  
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670

Andrew J. Morrissey, Esq.,  
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1660 Humboldt Road, Suite 6, Chico, CA 95928

COPY  
BY FAX

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8 Email: ef-has@cpdb.com  
9 ef-dcb@cpdb.com

10 Attorneys for Defendants and Cross-Complainants  
11 Calliopsis, LLC and California Olive  
12 Ranch, Inc.

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF TEHAMA**

15 Lucas D. Alexander, Co-Trustee of the Lucas D.  
16 Alexander and Nicole A. Alexander Revocable Trust;  
17 Nicole A. Alexander, Co-Trustee of the Lucas D.  
18 Alexander and Nicole A. Alexander Revocable Trust;  
19 and 4M2G, Inc., a California Corporation,

20 Plaintiffs,

21 v.

22 Calliopsis, LLC, a Delaware Limited Liability  
23 Company; California Olive Ranch, Inc., a California  
24 Corporation; and Does 1 through 25, inclusive,

25 Defendants.

26 Calliopsis, LLC, a Delaware Limited Liability  
27 Company and California Olive Ranch, Inc., a  
28 California Corporation,

Cross-Complainants,

v.

Lucas D. Alexander, Co-Trustee of the Lucas D.  
Alexander and Nicole A. Alexander Revocable Trust;  
Nicole A. Alexander, Co-Trustee of the Lucas D.  
Alexander and Nicole A. Alexander Revocable Trust;  
4M2G, Inc., a California Corporation; and All Other  
Persons Unknown, Claiming Any Legal Or Equitable  
Right, Title, Estate, Lien Or Interest In The Property  
Described In The Cross-Complaint, Which Claim Is  
Adverse To Cross-Complainant Calliopsis LLC's  
Title, Or Creates Any Cloud On Calliopsis LLC's  
Title,

Cross-Defendants.

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CLERK OF COURT  
Sheryl Knutson

Case No. 17 CI 000119

**CROSS-COMPLAINT TO QUIET  
TITLE, FOR DECLARATORY  
RELIEF, AND TO ENJOIN A  
PUBLIC NUISANCE**

Action Filed: June 1, 2017  
Trial Date: None Set

1 Cross-Complainants Calliopsis, LLC ("Calliopsis") and California Olive Ranch, Inc.  
2 ("COR") bring this Cross-Complaint against: Cross-Defendants Lucas D. Alexander, Co-Trustee  
3 of the Lucas D. Alexander and Nicole A. Alexander Revocable Trust; Nicole A. Alexander, Co-  
4 Trustee of the Lucas D. Alexander and Nicole A. Alexander Revocable Trust; and 4M2G, Inc. and  
5 allege as follows:

6 **PARTIES**

7 1. Cross-Complainant Calliopsis is a Delaware Limited Liability Company doing  
8 business in the County of Tehama, State of California.

9 2. Cross-Complainant COR is a California Corporation doing business in the County  
10 of Tehama, State of California.

11 3. Cross-Defendants and Plaintiffs Lucas D. Alexander and Nicole A. Alexander  
12 (collectively "ART") are co-trustees of the Lucas D. Alexander and Nicole A. Alexander  
13 Revocable Trust, dated October 9, 2008, and are residents of the County of Tehama, State of  
14 California.

15 4. Cross-Defendant and Plaintiff 4M2G is a California Corporation doing business in  
16 the County of Tehama, State of California.

17 5. The Cross-Defendants designated as, "All Other Persons Unknown, Claiming Any  
18 Legal or Equitable Right, Title, Estate, Lien Or Interest in the Property Described in the Cross-  
19 Complaint Which Claim Is Adverse to Cross-Complainant Calliopsis' Title, Or Creates Any  
20 Cloud on Cross-Complainant Calliopsis' Title," (sometimes referred to here as the "Unknown  
21 Defendants") are unknown to Cross-Complainants. Cross-Complainants are informed and believe  
22 and on that basis allege that each Unknown Defendant claims some right, title, estate, lien, or  
23 interest in the property described in Paragraph 7, below, which is adverse to, or creates a cloud  
24 on, Cross-Complainant Calliopsis' title to its property. All of the Cross-Defendants are  
25 collectively hereinafter referred to as the "Cross-Defendants" or, when referring to one or more of  
26 them in the singular, as a "Cross-Defendant."

27 6. Cross-Complainants are informed and believe and on that basis allege that each  
28 Cross-Defendant acted as the agent, employee, partner, or co-conspirator of one or more of the

1 other Cross-Defendants, and within the scope of such agency, employment, or partnership, and  
2 with the knowledge, consent, approval, and ratification of other Cross-Defendant(s).

3 **GENERAL ALLEGATIONS**

4 7. Cross-Complainant Calliopsis owns in fee simple two parcels of real property in  
5 Tehama County on which Cross-Complainant COR operates a commercial olive orchard and in  
6 which Cross-Defendants ART and 4M2G claim an adverse interest (the "Subject Parcels"). One  
7 parcel is commonly known as Tehama County APN 087-170-007 (the "007 Parcel") more  
8 particularly described as the East half of the East half of Section 36, Township 24 North, Range 3  
9 West, Tehama County. The second parcel is immediately North of the 007 Parcel, commonly  
10 known as 23995 Million Road, Corning, CA, more particularly described as Section 25,  
11 Township 24 North, Range 3 West, Tehama County APN 087-120-004 (the "004 Parcel").

12 8. Cross-Complainant Calliopsis purchased the Subject Parcels in or about  
13 November 2014.

14 9. The basis of Cross-Complainant Calliopsis' title is a grant deed from COR,  
15 granting certain property, including the Subject Parcels, to Cross-Complainant Calliopsis,  
16 recorded November 10, 2014, in the Official Records of the County of Tehama.

17 10. Cross-Complainant COR has operated olive orchards on the Subject Parcels since  
18 approximately September 2008. COR has a lease agreement with Calliopsis pursuant to which it  
19 operates the olive orchards.

20 11. Cross-Defendants ART and 4M2G contend in the verified Complaint they filed in  
21 this action that they have the right to an easement either by prescription, necessity, or equity over  
22 a strip of land approximately 15 feet in width, and approximately three-quarters to one mile in  
23 length (the "Private Road"), along and within the eastern boundary of the Subject Parcels,  
24 extending from Million Road to the private section of "Flournoy Avenue," as defined in  
25 paragraph 12, below. Contrary to such contention, Cross-Defendants do not have any rights, title,  
26 or interest in the Private Road.

27 12. Cross-Defendants ART and 4M2G contend in the verified Complaint they filed in  
28 this action that the section of Flournoy Avenue along and within the southern boundary of the



007 Parcel ("Private Flournoy Avenue") is a public road that Cross-Defendants ART and 4M2G and the public are entitled to access and use. Contrary to such contention, Cross-Defendants ART and 4M2G and the public do not have any rights, entitlements, or interest in Private Flournoy Avenue.

13. Cross-Defendants ART and 4M2G have alleged in the verified Complaint they filed in this action that they own three non-contiguous parcels of real property (collectively the "ART Property") situated in the County of Tehama, State of California, specifically and legally described as the fractional Southwest quarter of Section 31, Township 24 North, Range 2 West, Mount Diablo Meridian, Tehama County APN 091-050-010-000 (the "ART Eastern Parcel"), the South half of the Northeast quarter and the North half of the Southeast quarter of Section 6, Township 23 North, Range 2 West, Mount Diablo Meridian, Tehama County (the "ART Southeastern Parcel"), and Lots 1, 2, and 3, and the Northeast quarter of the Northwest quarter of Section 7, Township 23 North, Range 2 West, Mount Diablo Meridian, Tehama County (the "ART Southern Parcel").

14. The ART Eastern Parcel is adjacent to Calliopsis' Parcel 007 and is separated from the Private Road by a barbed-wire fence that has one locked gate between Cross-Defendants ART and 4M2G's Eastern Parcel and the Private Road.

15. Attached as Exhibit A, hereto, is a copy of a Google Earth map with highlighting and markings added by Cross-Complainants to show the approximate relative locations of the Private Road and Private Flournoy Avenue, as well as Calliopsis' 004 and 007 Parcels, and ART's Eastern, Southeastern, and Southern Parcels. Exhibit A is included for illustrative purposes only, and, moreover, to the extent that there is any inconsistency between the other allegations in this Cross-Complaint and Exhibit A, the other allegations take precedence over and trump Exhibit A.

16. Beginning in the spring of 2017, Cross-Defendants ART and 4M2G began to engage in various earth works, apparently to prepare the ART Property for agricultural planting. Since approximately May 2017, Cross-Defendants ART and 4M2G have used heavy machinery or equipment to chisel, disk, and/or grade the ground on the Eastern, Southeastern and Southern Parcels (collectively, hereinafter the "Earth Works"). Cross-Complainants are informed and

1 believe and thereon allege that Cross-Defendants ART and 4M2G intend to plant almond trees on  
2 the ART Property.

3 17. Cross-Complainants are informed and believe and on that basis allege that Cross-  
4 Defendants ART and 4M2G's Earth Works on the ART parcels have disturbed protected  
5 wetlands in violation of the United States Clean Water Act, 33 U.S.C. §§ 1251-1387, and  
6 regulations promulgated under it.

7  
8 **FIRST CAUSE OF ACTION**  
**(Quiet Title Against All Cross-Defendants)**

9 18. Each of the allegations in paragraphs 1-17, above, are fully restated and  
10 incorporated here.

11 19. Cross-Defendants contend that they own or are entitled to an easement by  
12 prescription, necessity, or equity over the Private Road on Parcel 004 and 007.

13 20. Cross-Defendants contend that they are entitled to use Private Flournoy Avenue.

14 21. Cross-Defendants' contentions that (a) they own or are entitled to an easement in  
15 the Private Road, and (b ) they are entitled to use Private Flournoy Avenue, are adverse to Cross-  
16 Complainant Calliopsis' fee simple ownership of the Subject Parcels, including of the Private  
17 Road and Private Flournoy Avenue. No Cross-Defendant has any right, title, estate, lien, or  
18 interest whatsoever, in all or any of the Private Road, Private Flournoy Avenue, or any other part  
19 of the Subject Properties.

20 22. The only encumbrance upon Cross-Complainant Calliopsis' fee simple ownership  
21 of the Subject Parcels are (1) a section of the 007 Parcel conveyed to PG&E by deed recorded July  
22 23, 1954, in Book 265, at page 164, Official Records of Tehama County; (2) sections of the  
23 Subject Parcels acquired by the United States of America by declaration of taking, recorded June  
24 6, 1965, in Book 472, at page 295, Official Records of Tehama County; (3) ½ of oil, gas and  
25 minerals, as reserved in deed recorded May 10, 1974 in Book 643 at page 48, Official Records of  
26 Tehama County; (4) the rights and easements as reserved by Eleanor A. Saldubehere in the  
27 declaration of taking by the United States of America, recorded June 16, 1965 in Book 472 at page  
28 295, Official Records of Tehama County; (5) the rights and easements reserved by Lois E.

1 Ashmore and James E. Ashmore, in the grand deed to the United States of America, recorded July  
2 2, 1965 in Book 473 at page 282, Official Records of Tehama County, and (6) an exclusive  
3 easement for ingress and egress over Private Flournoy Avenue for James M. Costello and Patricia  
4 Lee Costello (the "Costellos"), recorded March 31, 2009 as instrument no. 2009003825, Official  
5 Records of Tehama County.

6 23. Cross-Complainants seek to quiet title to the Subject Parcels against all adverse  
7 claims of all claimants, known and unknown as of July 7, 2017, the date that this Cross-Complaint  
8 is being filed.

9  
10 **SECOND CAUSE OF ACTION**  
**(Declaratory Relief Against Cross-Defendants ART and 4M2G)**

11 24. Each of the allegations in paragraphs 1-23, above, are fully restated and  
12 incorporated here.

13 25. Cross-Complainants contend that: Cross-Complainant Calliopsis owns in fee  
14 simple (a) Private Flournoy Avenue along the 007 Parcel's southern border, and (b) the Private  
15 Road on Parcel 004 and 007, subject only to any relevant encumbrances as listed in Paragraph 22,  
16 above. Cross-Complainants further contend that Cross-Defendants ART and 4M2G have no right  
17 to any easement over the Private Road on Parcel 004 and 007, and that Cross-Defendants ART  
18 and 4M2G have no right or entitlement to use Private Flournoy Avenue.

19 26. Cross-Defendants ART and 4M2G dispute Cross-Complainants' contention in  
20 Paragraph 25, and moreover have filed a Complaint in this action against Cross-Complainants in  
21 which they claim an easement by prescription, necessity, or equity over the Private Road on Parcel  
22 004 and 007, and in which they claim that Cross-Complainants' maintenance of a locked gate over  
23 Private Flournoy Avenue along Parcel 007's southern border is a public nuisance. Cross-  
24 Complainants dispute Cross-Defendants ART and 4M2G's claims.

25 27. There is an actual controversy now relating to the legal rights and duties of the  
26 respective parties with respect to any easements in and/or permitted uses of the Private Road and  
27 Private Flournoy Avenue.

28 28. Cross-Complainants request that this Court make a binding declaration of their and



1 Cross-Defendants ART and 4M2G's rights and duties with respect to these disputes and that the  
2 Court declares that Cross-Defendants ART and 4M2G have no easement, rights, title or interest in  
3 the Private Road and that they have no rights or entitlements to use Private Flournoy Avenue.

4 **THIRD CAUSE OF ACTION**  
5 **(To Enjoin Public Nuisance Against Cross-Defendants ART and 4M2G)**

6 29. Each of the allegations in paragraphs 1-23, above, are fully restated and  
7 incorporated here.

8 30. Cross-Complainants are informed and believe and on that basis allege that Cross-  
9 Defendants ART and 4M2G's Earth Works – including chiseling, digging, and/or leveling or  
10 grading – on the ART property have damaged and are continuing to damage protected waterways  
11 and wildlife habitats of the State of California and the United States.

12 31. Damage to the waterways and wildlife habitats immediately adjacent to Calliopsis'  
13 property damages Calliopsis' property value and Cross-Complainants' enjoyment of its land,  
14 affects the entire community and neighborhood, and constitutes a public nuisance in violation of  
15 California Civil Code Sections 3479 and 3480.

16 32. Cross-Defendants ART and 4M2G's activities specifically injure Cross-  
17 Complainants by damaging the value, use and enjoyment of Calliopsis' property. Therefore, Cross-  
18 Complainants are entitled to bring this civil action against the public nuisance Cross-Defendants  
19 ART and 4M2G created pursuant to California Civil Code Sections 3491 and 3493.

20 33. Unless restrained by a preliminary and permanent injunction, Cross-Defendants  
21 ART and 4M2G's public nuisance activities will continue to damage and irreparably injure the  
22 citizens of the surrounding area and the residents and natural habitat of the State of California.

23 34. Cross-Complainants have no adequate remedy at law for the injury suffered due to  
24 Cross-Defendants ART and 4M2G's public nuisance activities.

25 35. Concurrently with filing this Cross-Complaint, Cross-Complainants intend to serve  
26 a notice of intent to file suit for injunctive relief, civil penalties, and attorneys' fees for Cross-  
27 Defendants ART and 4M2G's violation of the Clean Water Act, pursuant to 33 U.S.C. § 1365. If  
28 the relevant regulatory agency does not prosecute such claim following the mandatory 60-day

1 advance notice period, Cross-Complainants intend to seek leave to amend this Cross-Complaint to  
2 allege violations of the Clean Water Act.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Cross-Complainants pray for a judgment as follows:

5 1. Determining that Cross-Complainant Calliopsis is the owner in fee simple of the  
6 real property identified as Parcels 004 and 007 and all rights associated therewith, that Calliopsis'  
7 title in and to Parcels 004 and 007 be quieted and that it be adjudged that Calliopsis is the owner in  
8 fee simple and entitled to the possession of Parcels 004 and 007, and that no Cross-Defendant has  
9 any right, title, estate, lien, or interest in or to Parcels 004 or 007 or any portion thereof.

10 2. That Cross-Defendants ART and 4M2G are forever enjoined and restrained as  
11 follows:

12 a. From claiming or asserting any claim or interest in or to Parcels 004 or 007  
13 or any portion thereof; and

14 b. From entering upon any portion of Parcels 004 or 007.

15 3. That Cross-Defendants ART and 4M2G are permanently enjoined from conducting  
16 Earth Works (including but not limited to chiseling, diskings, leveling and/or grading the ground)  
17 that damage protected California and U.S. wetlands and wildlife habitat.

18 4. For costs of suit incurred in this action; and

19 5. For such other relief as the Court may deem proper.

20  
21 DATED: July 6, 2017

COBLENTZ PATCH DUFFY & BASS LLP

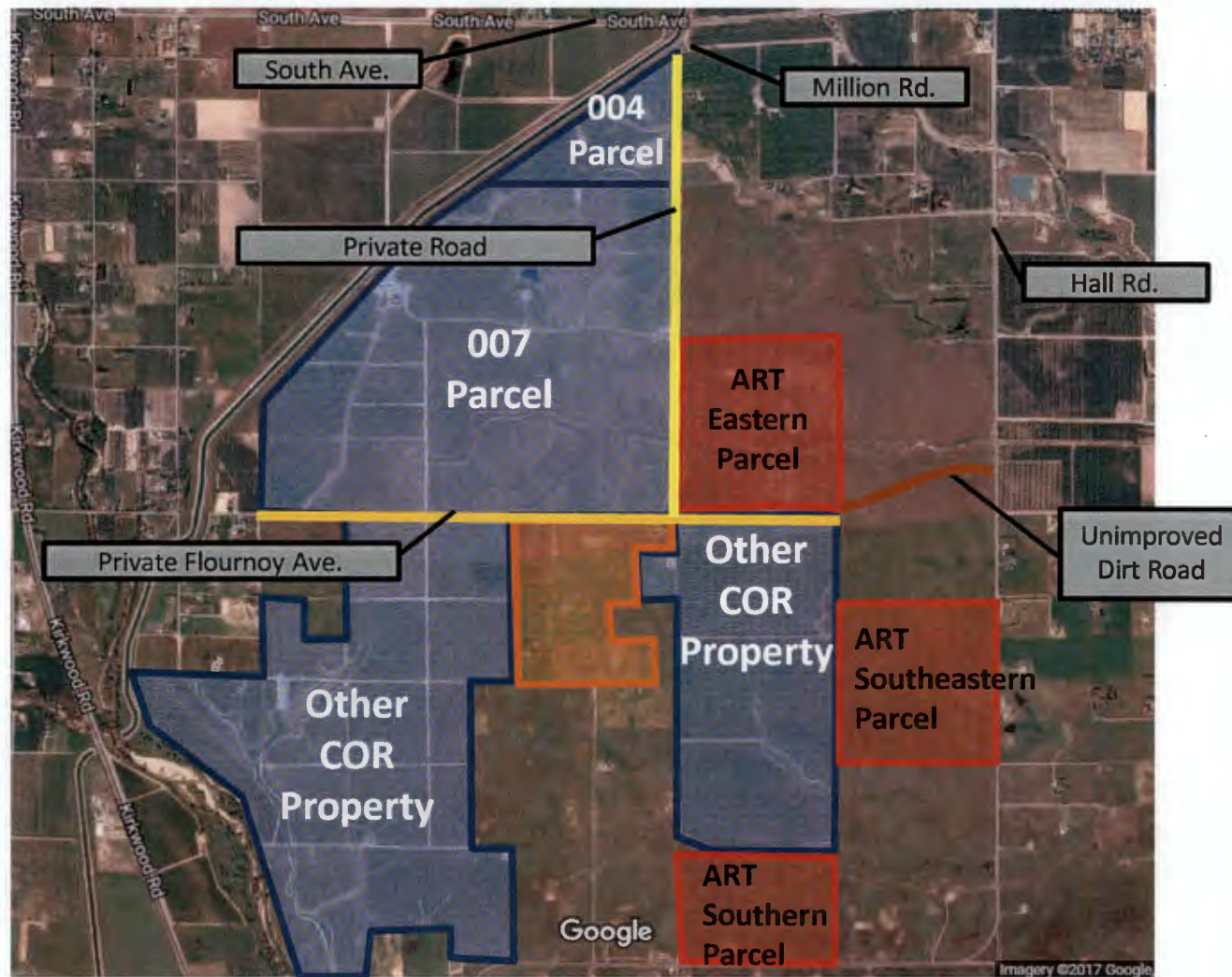
22  
23 By: 

24 Howard A. Slavitt

25 Attorneys for Defendants and Cross-Complainants  
26 Calliopsis, LLC and California Olive Ranch, Inc.  
27  
28

**EXHIBIT A**

**Legend:**  
**Blue:** COR3  
**Red:** ART  
**Orange:** Costello



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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I, Howard Slavitt, am a partner of Coblentz Patch Duffy & Bass LLP, attorneys for Calliopsis, LLC ("Calliopsis") and California Olive Ranch, Inc. ("COR") in this Action. I am executing this verification on behalf of our clients, Calliopsis and COR, because they are both absent from the county where I have my office.

I have read the foregoing *Cross-Complaint to Quiet Title, for Declaratory Relief, and to Enjoin a Public Nuisance*. I assert under penalty of perjury under the laws of the State of California that I am informed and believe the matters therein are true and on that ground I allege that the matters therein are true.

Executed on July 7, 2017



Howard Slavitt  
Coblentz Patch Duffy & Bass LLP

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is One Montgomery Street, Suite 3000, San Francisco, CA 94104-5500.

On July 7, 2017, I served true copies of the following document(s) described as

**CROSS-COMPLAINT TO QUIET TITLE, FOR DECLARATORY RELIEF,  
AND TO ENJOIN A PUBLIC NUISANCE**

on the interested parties in this action as follows:

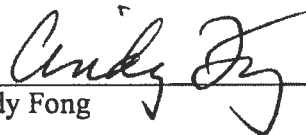
*Attorneys for Plaintiffs*  
**LUCAS D. ALEXANDER; NICOLE A.  
ALEXANDER; AND 4M2G, INC.**

Andrew J. Morrissey  
Leland, Schultz, Morrissey & Knowles, LLP  
1660 Humboldt Road, Suite 6  
Chico, CA 95928  
Telephone: (530) 342-4500  
Facsimile: (530) 345-6836

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Coblentz Patch Duffy & Bass LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 7, 2017, at San Francisco, California.

  
Cindy Fong